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Serious driving offences

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Summary

This paper provides a general overview of charging and sentencing policy and successive governments' approaches to serious driving offences, including careless and dangerous driving, and causing serious injury or death thereby.

Members of Parliament often have their attention drawn to serious or fatal road accidents in their constituencies, after which the driver responsible for the accident is charged with a relatively minor traffic offence and/or where the penalty seems totally inappropriate in relation to the seriousness of the accident and the impact on the victims and their families. This has resulted in concerns about the adequacy of road traffic law and the application of it in dealing with those responsible for serious road accidents.

Governments of all parties have sought to address some of these anxieties by increasing maximum sentences and fine levels and introducing new offences. In recent years this has included new offences of 'causing serious injury' by various driving offences, long campaigned for by road safety and road accident victim groups.

In December 2016 the Ministry of Justice published a consultation paper on changes to four key areas: the distinction between 'careless' and 'dangerous' driving; a perceived 'gap in the law' for causing serious injury by careless driving; the maximum penalties for causing death; and driving disqualifications. The consultation closes on 1 February 2017.

As the justice system is devolved in Scotland, the information herein relating to charging and sentencing policy relates to England and Wales only.

Separate Commons Library briefing papers are available on driving while under the influence of drugs ([SN2884](#)), drink driving ([SN788](#)) and driving while using a mobile phone ([SN366](#)). Information on other roads-related issues can be found on the [Roads Topical Page](#) of the Parliament website.

1. Background: North Report, 1988

Until 1977, the 'bad driving offences' were concerned with three types of bad driving – reckless, dangerous and careless – though reckless and dangerous driving were both penalised in the same way through one offence. The offence of dangerous driving was abolished by section 50 of the [Criminal Law Act 1977](#), leaving two levels of offence: reckless and careless driving. The main reason for the abolition of dangerous driving was the lack of any sufficiently established distinction between dangerous and careless driving.

In 1985 the Conservative Government set up a Road Traffic Law Review, under the chairmanship of Dr Peter North, to look again at offences of bad driving. The report was published in 1988.¹

The review found, on consultation, widespread criticism of the law relating to reckless and careless driving. In particular it was felt that too many cases of serious bad driving were not dealt with by the legal system with appropriate severity. The legal definition of recklessness in England and Wales, which was not defined in the [Road Traffic Act 1972](#), was found to contain an element of subjectivity which was difficult to prove. The Review recommended that the offences of reckless driving in the 1972 Act (later consolidated into the [Road Traffic Act 1988](#)) should be replaced by ones more firmly based on the actual standard of driving.

The Review was particularly concerned with changes in the treatment of offences caused by drunken drivers. Under the legislation in force at the time, a driver who was over the prescribed alcohol limit (or who was unfit by virtue of driving under the influence of drink or drugs) and whose driving caused an accident in which someone was killed, was often charged only with an alcohol or drugs offence, or with this offence coupled with one of careless driving.

The fact that the driver had been drinking was not by itself sufficient to establish the offence of causing death by reckless driving. If the quality of the driving itself did not very clearly possess the quality of recklessness, the prosecuting authorities often settled for a drink driving charge as being easier to prove, in the knowledge the driver would at least be taken off the road for a year, rather than for the more serious charge. The Review was very aware of public concern over drunk drivers who killed and so looked at the possibility of introducing a specific offence linking the consequences of death with the fact of having drunk more than the legal limit.

The Conservative Government's subsequent White Paper, published in 1989, considered reform of the drunk driver law a priority. The Government agreed with the North Report's proposal that a new offence of causing death by careless driving while affected by drink or

¹ DoT and Home Office, *Road Traffic Law Review Report*, 12 April 1988

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drugs should be created and, following its recommendations, that the legislation on serious driving offences should be recast.² Introducing the paper to the House the then Secretary of State for Transport, Paul Channon, said:

We aim to ensure that the penalty matches the offence and that those who drive very badly are properly punished.

The present reckless driving offence does not operate satisfactorily in England and Wales, and must be changed. At the moment drivers are escaping conviction, because the law turns on the driver's state of mind rather than the state of driving. The Government therefore propose to replace the reckless driving offence with a new offence of dangerous driving based more firmly on the observable standard of driving. This offence will have two ingredients: the standard of driving must fall far below that expected of a competent and careful driver, and the driver must carry a danger of physical injury or serious damage to property.

The present offence of causing death by reckless driving will be replaced by a new offence of causing death by dangerous driving. The present lower level offence of careless driving will be retained.

One of the most serious threats to safety on the roads is drink driving. There is much public concern about the inadequacy of the present law for dealing with drunk drivers who kill. The Government will meet this concern.³

This resulted in the [Road Traffic Act 1991](#).

² DoT, *The road user and the law*, Cm 576, February 1989

³ [HC Deb 7 February 1989, c801](#); the proposals had broad support from the Labour Party, see John Prescott's response, beginning c803

2. Charging policy

There is a perception that the police and prosecutors frequently favour prosecuting motorists involved in accidents where there is a fatality or serious injury for a lesser offence, for which they are more likely to gain a conviction.

This section applies to England and Wales only

The Crown Prosecution Service (CPS) has been aware of this problem for a long time. In the introduction to its 2007 review of its guidance on how to prosecute bad driving, it said:

Bad driving resulting in death or injury has devastating consequences for victims and their families and friends, and it is important that justice is seen to be done in cases where this has happened.

The CPS is committed to ensuring that in such cases our prosecutors reach the correct charging decisions, so that the right person is prosecuted for the right offence in the right court.

For this to be achieved these decisions must be in line with current law, but also, where it is just and lawful to do so, they should reflect changing public attitudes to bad driving and the desire of victims, or their families, friends and the public, to see that justice is done in these cases.⁴

In the revised version of the guidance, published in 2013,⁵ it sets out particular guidance for accidents where the victim is a close friend or relative of the driver, stating that: “Whilst the serious nature of these cases usually means that a prosecution will be in the public interest, prosecutors must acknowledge the greater emotional impact likely to be felt by a driver where the death he or she has caused is that of a relative or someone with whom they share a close personal relationship”.⁶

It also makes more general observations about other public interest considerations when charging offences arising from driving incidents:

The following is not exhaustive but it indicates some further public interest considerations that prosecutors should keep in mind with driving offences:

- The level of culpability of a driver is likely to be relevant. The greater the degree of culpability, the greater the public interest in favour of prosecution;
- If the driver has caused harm, annoyance or distress to other road users, it is more likely to be in the public interest to prosecute; see the section on Driving without reasonable consideration;

If a person drives below the required standard and they have not passed a driving test, are unfit to drive because of a medical condition, or are driving otherwise than in accordance with the

⁴ CPS, [Policy for prosecuting cases of bad driving](#), December 2007, paras 2-4; the first edition of the guidance was published in 1996

⁵ following consultation, see: CPS, [Public consultation on the CPS Guidance on Charging Offences arising from Driving Incidents](#), September 2012

⁶ CPS, [Road Traffic Offences - Guidance on Charging Offences arising from Driving Incidents](#), 2013 [accessed 3 December 2015]

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conditions of a provisional licence, it is more likely to be in the public interest to prosecute;

It will not necessarily be appropriate to prosecute every case where a minor collision occurs e.g. where the incident is of a type that involves minimal carelessness which may occur when parking a vehicle or in traffic queues. The extent of any damage does not matter in such cases; it is the extent of the driving error.

Prosecutors should ensure that proceedings are not conducted for the sake of settling questions of liability for the benefit of individual drivers or insurance companies.⁷

Furthermore, all Crown Prosecutors must apply the [Code for Crown Prosecutors](#) when considering charges. Prosecutors must consider each individual case on its own facts and on its own merits. They must consider whether there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge (the evidential stage) and, if there is sufficient evidence, go on to consider whether a prosecution is in the public interest (the public interest stage).⁸

The 2013 guidance sets out examples of what is likely to be regarded as dangerous driving as follows:

- **rac**ing or competitive driving;
- failing to have a proper and safe regard for **vulnerable road users** such as cyclists, motorcyclists, horse riders, the elderly and pedestrians or when in the vicinity of a pedestrian crossing, hospital, school or residential home;
- **speed**, which is particularly inappropriate for the prevailing road or traffic conditions;
- **aggressive driving**, such as sudden lane changes, cutting into a line of vehicles or driving much too close to the vehicle in front;
- disregard of **traffic lights and other road signs**, which, on an objective analysis, would appear to be deliberate;
- disregard of **warnings from fellow passengers**;
- **overtaking** which could not have been carried out safely;
- driving when knowingly suffering from a **medical or physical condition** that significantly and dangerously impairs the offenders driving skills;
- driving when knowingly **deprived of adequate sleep** or rest;
- driving a vehicle knowing it has a **dangerous defect** or is poorly maintained or is dangerously loaded;
- using a **hand-held mobile phone** or other hand-held electronic equipment whether as a phone or to compose or read text messages when the driver was avoidably and dangerously distracted by that use;
- driving whilst avoidably and dangerously **distracted** such as whilst reading a newspaper/map, talking to and looking at a passenger, selecting and lighting a cigarette or by adjusting the controls of electronic equipment such as a radio, hands-free mobile phone or satellite navigation equipment; or
- a brief but obvious danger arising from a **seriously dangerous manoeuvre**. This covers situations where a driver has made a

⁷ *ibid.*

⁸ *ibid.*

mistake or an error of judgement that was so substantial that it caused the driving to be dangerous even for only a short time.⁹

Examples of what is likely to be regarded as careless driving or driving without due care and attention as follows:

- **overtaking** on the inside;
- **driving inappropriately close** to another vehicle;
- inadvertently driving through a **red light**;
- emerging from a **side road** into the path of another vehicle;
- tuning a **car radio** when the driver was avoidably distracted by this action;
- using a **hand-held mobile phone** or other hand-held electronic equipment when the driver was avoidably distracted by that use; or
- selecting and lighting a **cigarette** or similar when the driver was avoidably distracted by that use.¹⁰

Finally, the guidance explains what factors are not relevant when deciding whether an act of driving is dangerous or careless:

- the **injury or death** of one or more persons involved in a road traffic collision. Importantly, injury or death does not, by itself, turn a collision into careless driving or turn careless driving into dangerous driving;
- the **skill** or lack of skill of the driver;
- the commission of **other driving offences** at the same time (such as driving whilst disqualified or driving without a certificate of insurance or a driving licence);
- the fact that the defendant has **previous convictions** for road traffic offences; or
- the mere **disability** of a driver caused by mental illness or by physical injury or illness, except where there is evidence that the disability adversely affected the manner of the driving.¹¹

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.*

3. Sentencing policy

The North Report considered that the courts should be able to take consequences into account in sentencing for all the general bad driving offences and that this should be made clear by legislation both in England and Wales and in Scotland.¹² In its response to the report the Conservative Government disagreed that there was any need for legislation and that the judicial measures in place were adequate.¹³

This section applies to England and Wales only

Section 81(4) of the [Crime and Disorder Act 1998](#) placed a new statutory duty on the Court of Appeal to consider improving sentencing guidelines when cases come before the court and to establish the principles that guidelines take into account. In February 2003 the Sentencing Advisory Panel published advice to the Court of Appeal on sentencing for the offence of causing death by dangerous driving.¹⁴ The Panel's aim in making the proposal was to suggest a more structured approach to assist judges in selecting a sentence for the offence which struck an appropriate balance between the level of culpability of the offender, and the magnitude of the harm which resulted. The Panel's proposals included the identification of particular factors that would aggravate the seriousness of the offence (e.g. consuming alcohol or drugs, speeding, distraction, etc.)

In April 2003 the Lord Chief Justice gave a judgment in relation to three appeals against sentence and on Attorney General's Reference.¹⁵ The appeals and the reference were listed together to enable the Court of Appeal to decide whether it should issue fresh guidelines on sentencing in view of the advice of the Sentencing Advisory Panel. The Court made some general comments about sentencing for death by dangerous driving, including that a custodial sentence would normally be given whatever the mitigating factors because of the need to deter others from dangerous driving.¹⁶ The Court issued new guidelines based on the Panel's advice, which in general it accepted. They came into force from the date of the judgment.

In January 2007 the Sentencing Advisory Panel announced a new consultation on advice about the 'causing death by driving' offences.¹⁷ In January 2008 the Panel published its new advice to the Sentencing Council¹⁸ on these offences. The Panel outlined its general approach in the forward to the advice:

¹² *op cit.*, [Road traffic law review](#), para 6.38

¹³ *op cit.*, [The road user and the law](#), paras 2.15-2.18

¹⁴ Sentencing Advisory Panel, [Advice to the Court of Appeal – 11: Causing Death by Dangerous Driving](#), February 2003

¹⁵ [Regina v Cooksley, Stride & Cook](#) ([2003] EWCA Crim 996), 3 April 2003

¹⁶ *ibid.*, para 11

¹⁷ SAP press notice, "[Consultation paper on causing death by driving offences](#)", 25 January 2007

¹⁸ the Council was created in 2004 in order to frame guidelines to assist courts as they deal with criminal cases throughout England and Wales; it receives advice from the Panel which consults widely before tendering that advice, the Council then produces a draft guideline on which it seeks the views of a limited group as provided by the [Criminal Justice Act 2003](#)

One of the most difficult issues for the Panel to consider was how best to structure a guideline that could differentiate between the factors that led the Crown Prosecution Service to charge a particular offence (which is not within the Panel's remit) and any additional factors that might have made that offence more or less serious. The assessment of seriousness of these offences, especially those involving dangerous driving, requires the court to consider a significant number of factors that combine to form an overall picture of the offence and the offender that can be difficult to unravel.

The Panel's approach is first to identify those factors that relate to the quality of driving (broadly affecting the way in which the vehicle was driven or the offender's ability to drive); these factors are referred to as 'determinants of seriousness' and are used to differentiate between levels of seriousness within each offence. Other factors, largely related to the offender's behaviour or the outcome of the offence, are treated as aggravating and mitigating factors. We hope that the approach we have adopted will help to guide sentencers through this complex consideration process.¹⁹

In total the Panel made 18 recommendations.²⁰ These included recommendations on the new offences in the [Road Safety Act 2006](#), to the effect that a fine is most unlikely to be an appropriate sentence for both causing death by careless or inconsiderate driving or causing death by driving when unlicensed, disqualified or uninsured, and that where a custodial sentence is not justified, a community order should be imposed.²¹ Alongside the advice, the Council published a consultation on its proposals, which largely accepted the panel's advice.²²

In July 2008 the Council published its final guidelines to the courts for driving offences resulting in death. The new Guidelines provide for the following:

Lengthy custodial sentences are recommended by the Sentencing Guidelines Council for cases involving prolonged, persistent and deliberate bad driving or where drivers are intoxicated or under the influence of drugs.

The use of mobile phones is also treated robustly with the Council advising that if an offender was distracted by a hand-held mobile phone when the offence was committed the offence will be treated as particularly serious.

The Guidelines state that reading or composing text messages over a period of time whilst at the wheel will be likely to result in an offence being in the higher level of seriousness and offenders should serve up to seven years in prison.

Clear advice on driving bans is also given. Magistrates and judges are reminded that disqualifications are effective from the day that they are imposed and will only be of practical effect if they extend beyond the period that will be served in prison.

The definitive guideline covers four offences: causing death by dangerous driving, causing death by careless driving under the

¹⁹ SAP, [Advice to the Sentencing Guidelines Council: Driving Offences – Causing Death by Driving](#), 9 January 2008, foreword

²⁰ *ibid.*, pp59-60 (Annex E)

²¹ *ibid.*, p60

²² SAC, [Causing death by driving – consultation guidelines: letter to consultees](#), 9 January 2008

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influence of alcohol or drugs, causing death by careless driving and causing death by driving: unlicensed, disqualified or uninsured drivers. The latter two offences were introduced by the Road Safety Act 2006 and will come into force on a date to be announced.

For the first three offences, judges and magistrates are advised they will need to assess how bad the driving was and the degree of danger that it created in deciding the level of seriousness. Other issues – largely related to the offender’s behaviour – are treated as aggravating factors.

The Sentencing Guidelines Council recommends that prolonged, persistent and deliberate bad driving and consumption of substantial amounts of drugs or alcohol should put offenders into the most serious category of **causing death by dangerous driving** and be given jail terms of at least seven years. A combination of these features of dangerous driving – particularly if accompanied by aggravating factors, failing to stop or a very bad driving record - should attract sentences towards the maximum of 14 years.

In dealing with cases of **causing death by careless driving under the influence of alcohol or drugs** the guideline provides for longer sentences as the degree of intoxication increases, so that sentence levels equate to those for causing death by dangerous driving.

The Council recommends that **where death follows careless driving**, a custodial sentence of up to 3 years is likely, with higher sentences where there is a combination of aggravating factors. However, where the driving involved “momentary inattention” and there were no aggravating factors, an offender should be given a community sentence, which could include a curfew requirement.

Where **death results from an offence involving driving unlicensed, disqualified or uninsured**, the maximum sentence possible is two years. The level of seriousness will be based on why the offender should not have been on the road, with driving while disqualified being the most serious when the starting point is set at 12 months imprisonment.

In all cases fines are not likely to be appropriate and where non-custodial sentences are considered appropriate, a community order should be used.²³

The Sentencing Council has no immediate plans to review the guidelines. Any change would be consequential to changes to the law.²⁴

Most recently in its December 2016 consultation paper, the Ministry of Justice set out those reasons why maximum sentences are not automatically handed down for serious driving offences, particularly those which result in death – an issue of great concern to those affected by this sort of incident:

Imposing the statutory maximum penalty in all cases would represent a fundamental change to the criminal law and would conflict with the position in relation to other offences resulting in

²³ SAC press notice, “[Council Publishes Guideline for Courts dealing with Driving Offences Resulting in Death](#)”, 15 July 2008; and the [Definitive Guidelines](#) [accessed 3 December 2015]

²⁴ [HCWPO 17704](#), 2 December 2015

death, such as manslaughter. Given that the approach to sentencing ... applies across all criminal offences it is difficult to justify a different approach for a specific offence or group of offences. Imposing a series of long consecutive sentences in every case irrespective of the culpability of the offender would also constitute an unjustified departure from the current position and lead to a severe restriction in the ability of judges to exercise their discretion to impose a just and proportionate sentence in individual cases. Therefore the Government does not propose to change the law to require the imposition of a maximum penalty.²⁵

²⁵ MoJ, [*Driving offences and penalties relating to causing death or serious injury*](#), Cm 9381, 5 December 2016, paras 40-41

4. Government policy

4.1 New offences

In February 2005 the Labour Government published a consultation paper on changes to road traffic offences.²⁶ These were legislated for in sections 20 and 21 of the [Road Safety Act 2006](#), which introduced new offences of **causing death by careless driving**, with a penalty of up to five years' imprisonment; and **causing death when driving while unlicensed, disqualified or uninsured**, with a penalty of up to two years' imprisonment.²⁷ They both came into force on 18 August 2008.

In October 2011 the Coalition Government introduced a new clause at Committee stage of what is now the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) to introduce a new offence of **causing serious injury by dangerous driving**. The offence, contained in section 143 and Schedule 27 of the Act, provides that "A person who causes serious injury to another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence". 'Serious injury' is defined in England and Wales as: "physical harm which amounts to grievous bodily harm for the purposes of the [Offences against the Person Act 1861](#)", and in Scotland: "severe physical injury". The maximum penalty is five years' in prison and a fine.²⁸ The measure received cross-Party support and was welcomed by road safety campaigners.²⁹ It came into force on 3 December 2012.³⁰

Most recently, the Coalition Government legislated in section 29 of the [Criminal Justice and Courts Act 2015](#) for a new offence of **causing serious injury by driving while disqualified**. It carries a maximum penalty of 4 years' imprisonment and/or a fine. It came into force on 13 April 2015.³¹

4.2 Increased penalties for existing offences

In July 2002 the Labour Government published the outcome of its review into road traffic penalties. It included the recommendation that the **maximum penalty for the 'causing death' offences** should be increased from 10 to 14 years and the minimum disqualification period should be three years.³² These changes were legislated for in sections 285 and 286 of the [Criminal Justice Act 2003](#) and came into force the following year.

²⁶ Home Office, [Review of Road Traffic Offences involving Bad Driving: a consultation paper](#), February 2005

²⁷ Home Office press notice, "[New measures to crack down on uninsured and careless driving](#)", 31 October 2005

²⁸ [PBC Deb 13 October 2011, cc816-17](#)

²⁹ see, e.g.: RoSPA press notice, "[RoSPA Greets Announcement Of New Dangerous Driving Offence](#)", 7 October 2011

³⁰ via the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Commencement No. 3 and Saving Provision\) Order 2012 \(SI 2012/2770\)](#)

³¹ MoJ press notice, "[Justice for victims of banned drivers](#)", 6 May 2014

³² Home Office etc., [Report on the Review of Road Traffic Penalties](#), July 2002, pp5-6

Most recently, the Coalition Government increased the penalty for **causing death by driving while disqualified** by removing it from the wider offence that had been legislated for in 2006 (see above) and making it a separate offence under section 29 of the [Criminal Justice and Courts Act 2015](#). It carries a maximum penalty of 10 years' imprisonment and/or a fine. It came into force on 13 April 2015.

4.3 Fixed penalties for careless driving

In November 2008 the Department for Transport published a consultation paper which, amongst other things, asked for views on whether 'careless driving' should be made a fixed penalty offence which would mean that, instead of going to court, drivers could be given the option of accepting a fixed penalty of £60 and three penalty points.³³

In May 2011 the Coalition Government published a strategic framework for road safety. This included a commitment to introduce the fixed penalty for careless driving, as per Labour's 2008 consultation.³⁴ In June 2012 the Government published a consultation paper proposing that the police be given powers to offer those stopped for careless driving either a fixed penalty of £90 or remedial training. The paper also included proposals to increase the fixed penalties for motoring offences.³⁵

The Government published the outcome of the consultation in June 2013, announcing its intention to make careless driving a fixed penalty offence and open to the offer of remedial training. It said it would also set the careless driving fixed penalty level at £100 with three penalty points.³⁶ This came into force on 16 August 2013.³⁷

4.4 Maximum penalties in Magistrates' Courts

Sections 85-87 of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) permit the Secretary of States, by means of regulations, to increase the maximum levels of fines, including the 'standard scale' that may be applied by Magistrates' Courts.

A draft statutory instrument was published in June 2014 and in March 2015 the £5,000 maximum fine level was abolished in favour of an unlimited fine.³⁸ The Justice Minister, Mike Penning, said: "Criminals should be in no doubt that if they break the law they will face

³³ DfT, [Road safety compliance consultation](#), November 2008

³⁴ DfT, [Strategic Framework for Road Safety](#), May 2011, para 5.14

³⁵ DfT, [A consultation on changes to the treatment of penalties for careless driving and other motoring offences](#), June 2012

³⁶ DfT, [Government response to consultation on the treatment of careless driving penalties and other motoring fixed penalties](#), June 2014, p13

³⁷ via the [Fixed Penalty Offences Order 2013 \(SI 2013/1565\)](#); this was accompanied by a general increase in the level of many fixed penalties, via the [Fixed Penalty \(Amendment\) Order 2013 \(SI 2013/1569\)](#)

³⁸ via the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(SI 2015/664\)](#)

consequences and where a fine is the most appropriate sentence this could run into several thousands".³⁹

4.5 Future changes, 2016-

In May 2014, the Ministry of Justice announced a "full review of all driving offences and penalties, to ensure people who endanger lives and public safety are properly punished".⁴⁰ This was finally published in December 2016. It seeks views on the following proposals:

- Whether there should be a new offence of **causing serious injury by careless driving** and if so whether either 2 or 3 years would be an appropriate and proportionate maximum penalty for the new offence;
- Whether the maximum penalty for **causing death by dangerous driving** adequately reflects the culpability of the offending behaviour or whether it should be increased from 14 years' imprisonment to life;
- Whether the maximum penalty for **causing death by careless driving under the influence of drink or drugs** should reflect the same culpability (and therefore the same maximum penalty) as causing death by dangerous driving;
- Whether consideration should be given to a longer minimum period of **disqualification** for offenders convicted of any causing death by driving offence and if so what the minimum period should be; and
- Whether there are any other driving offences relating to causing death or serious injury that should be changed.⁴¹

The paper also explains in more detail the Government's thinking on the issue of **careless driving**, which road safety groups have been campaigning about for a number of years. This encompasses why the distinctions between careless and dangerous driving should be retained, including the use of the word 'careless':

The Government has considered the suggestion that creating one 'bad driving' offence which abolished the distinction between careless and dangerous driving yet retained the objective test, could increase the number of convictions and result in longer sentences especially for those who would have been convicted of careless driving bordering on dangerous driving.

The single standard of driving approach raises difficulties, in particular in relation to the offences causing serious injury or death. The maximum penalty for the offence would have to cover the most serious behaviour imaginable under the offence resulting in a high maximum penalty. There is a risk that juries may be less willing to convict a driver for an offence which falls within the less serious range of driving (what is currently careless driving) if they considered the maximum penalty that could be imposed disproportionate.

Further, this approach would not necessarily result in different sentencing behaviour [...]

³⁹ MoJ press notice, "[Unlimited fines for serious offences](#)", 12 March 2015

⁴⁰ MoJ press notice, "[Justice for victims of banned drivers](#)", 6 May 2014

⁴¹ *op cit.*, [Driving offences and penalties relating to causing death or serious injury](#), p17

It has also been suggested that the use of the word “careless” in relation to driving offences trivialises the nature of the offence and, especially in relation to offences that result in death, it is insulting to bereaved families. A number of victims and families of victims have raised this concern although they recognise that careless driving is an established term within the relevant legislation.

Whilst recognising this concern, we do not think that a change in the actual wording in the legislation would be helpful, and it could cause confusion about the objective test. However, we do think that it is essential that all involved in the criminal justice system – the police, prosecutors and the courts, are better at explaining their decision making and stress the impact that ‘bad driving’, of whatever type, has on victims and their families.⁴²

The consultation closes on 1 February 2017.⁴³

⁴² *ibid.*, pp7-8

⁴³ [Impact and Equality Assessments](#) for the proposals are also available [accessed 7 December 2016]

Appendix: main road traffic offences

Below are listed the serious offences in the *Road Traffic Act 1988* (RTA), as amended, with the maximum penalties for each.

Offence	Legislation	Maximum penalty
Causing death by dangerous driving	RTA 1988, s1	(Crown Court) 14 year's imprisonment and /or an unlimited fine; obligatory disqualification for a minimum of two years; and obligatory endorsement of the driver's licence with 3-11 penalty points. This offence is also manslaughter, for which the maximum penalty is life imprisonment, although manslaughter will normally only be charged in a very serious case.
Causing serious injury by dangerous driving	RTA 1988, s1A	(Triable either way) Crown Court: an unlimited fine and/or five years' imprisonment. Magistrates' court: 12 months' imprisonment or the statutory maximum or both. Both courts must disqualify the driver for at least one year and endorse the driver's licence with 3-11 penalty points (unless there are special reasons not to do so).
Dangerous driving	RTA 1988, s2	(Triable either way) Crown Court: unlimited fine and/or two years' imprisonment. Magistrates' Court: unlimited fine and/or six months imprisonment. Both courts must disqualify the driver for at least one year and endorse the driver's licence with 3-11 penalty points (unless there are special reasons not to do so).
Causing death by careless, or inconsiderate, driving	RTA 1988, s2B	(Triable either way) Crown Court: five years imprisonment. Magistrates' Court: 12 months' imprisonment. Both courts must disqualify the driver for at least one year and endorse the driver's licence with 3-11 penalty points (unless there are special reasons not to do so).

Offence	Legislation	Maximum penalty
Careless driving or driving without reasonable consideration	RTA 1988, s3	(Magistrates' Court) unlimited fine; discretionary disqualification for any period and/or until a driving test has been passed; and obligatory endorsement of the driver's licence with 3-9 penalty points (unless there are special reasons not to do so).
Causing death by careless driving while under the influence of drink or drugs	RTA 1988, s3A	(Crown Court) unlimited fine and/or 14 years imprisonment; obligatory disqualification for at least two years (three years if there is a relevant previous conviction); and obligatory endorsement of the driver's licence with 3-11 penalty points.
Causing death by driving: unlicensed or uninsured drivers	RTA 1988, s3ZB	(Triable either way) Crown Court: two years imprisonment and an unlimited fine. Magistrates' Court: 12 months imprisonment and an unlimited fine. Both courts must disqualify the driver for at least one year and endorse the driver's licence with 3-11 penalty points (unless there are special reasons not to do so). There is a discretionary power to order an extended driving test where a person is convicted of this offence.
Causing death by driving: disqualified drivers	RTA 1988, s3ZC	(Crown Court) 10 years' imprisonment and/or an unlimited fine, an obligatory disqualification and endorsement of the driver's licence with 3-11 penalty points.
Causing serious injury by driving: disqualified drivers	3ZD	(Triable either way) Crown Court: 4 years' imprisonment and/or an unlimited fine. Magistrates' Court: 12 months and/or unlimited fine. Both courts must disqualify the driver and endorse the driver's licence with 3-11 penalty points.

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